



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
TWIN CITIES ARMY AMMUNITION PLANT
470 WEST HWY 96 - SUITE 100
SHOREVIEW, MN 55126-3218

Re: 2751426T0015

TCAAP

February 10, 2014

Mr. Richard D. Hackley
Chief, Program Accounting & Analysis Section
EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Dear Mr. Hackley:

This letter acknowledges receipt of your correspondence dated January 24, 2014 (Re: New Brighton, MN 0540). As you know, shortly after the Twin Cities Army Ammunition Plant (TCAAP) Federal Facility Agreement (FFA) was signed in 1987, the Department of Defense (DoD) determined that it did not have the legal authority to transfer funds to the U.S. Environmental Protection Agency (EPA) for reimbursement under Section XXIX of the FFA without specific statutory authorization. Transferring funds from one agency to another in the absence of such authority risks improper augmentation.

In 2010, DoD requested authorization for a transfer of funds to fulfill its obligations under the FFA for years up to and including fiscal year 2011, and for authorization to reimburse EPA in future years. Section 311 of the 2011 National Defense Authorization Act (NDAA), Public Law No. 111-383, provided DoD with the authorization to "transfer not more than \$5,611,670.67 in fiscal year 2011 to the Hazardous Substance Superfund" for the purpose of reimbursing EPA for costs it "incurred relating to the response actions performed at the Twin Cities Army Ammunition Plant, Minnesota." Congress did not include authority for funds transfers in future years. Rather, Congress rejected a proposal to allowed limited payments for a few additional years and stated that the fiscal year 2011 payment was "to fully satisfy the costs incurred by EPA related to the cleanup at TCAAP pursuant to the terms of the agreement." Senate Report S. 111-201 to Senate Bill 3454, National Defense Authorization Act for Fiscal Year 2011, page 101. EPA may continue to provide annual estimates of oversight costs and bills for actual costs in accordance with the FFA, but the Army may not pay such costs without further statutory authorization.

Furthermore, even if Congress were to grant authorization, this bill presents additional concerns.

Subsection XXIX, paragraph H, of the FFA states:

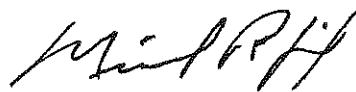
[A]fter the end of each federal fiscal year, U.S. EPA and MPCA shall submit to the Army separate accountings including both costs incurred in performing oversight of this Agreement and costs of response actions related to the Site. Such oversight costs shall include the costs associated with: (1) reviewing Submittals and work performed pursuant to this Agreement, (2) fulfilling their respective obligations under this Agreement, (3) arranging for or contracting with a qualified person to assist in overseeing and reviewing the Submittals and work performed pursuant to this Agreement.

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111-383

The information contained in your correspondence dated January 24, 2014 does not provide a description of the costs in sufficient detail for the Army to determine if these oversight activities are within the scope of the agreement. Additionally, work plans with sufficient detail to identify planned oversight and response costs are required prior to incurring costs.

If you have any questions, please contact the POC, Mr. Michael Fix, DAIM-ODB-TW at (651) 294-4930.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Fix".

Michael R. Fix
Commander's Representative

Copy Furnished:

US EPA, Region V, ATTN: Mr. Timothy Thurlow, C-14J, 77 West Jackson Blvd.,
Chicago, IL 60604

US EPA, Region V, ATTN: Mr. Thomas Barounis, SR-6J, 77 West Jackson Blvd.,
Chicago, IL 60604

USDA, Mr. Michael J. Kelly, 600 Army Pentagon (Room 5B112A),
Washington, DC 20310-6000



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
TWIN CITIES ARMY AMMUNITION PLANT
470 WEST HWY 96 - SUITE 100
SHOREVIEW, MN 55126-3218

27515.267019
TCAAP
2015 JAN 20 PM 5:04

January 13, 2015

Mr. Richard D. Hackley
Chief, Program Accounting & Analysis Section
EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Dear Mr. Hackley:

This letter acknowledges receipt of your correspondence dated January 8, 2015 (Re: New Brighton, MN 0540). As you know, shortly after the Twin Cities Army Ammunition Plant (TCAAP) Federal Facility Agreement (FFA) was signed in 1987, the Department of Defense (DoD) determined that it did not have the legal authority to transfer funds to the U.S. Environmental Protection Agency (EPA) for reimbursement under Section XXIX of the FFA without specific statutory authorization. Transferring funds from one agency to another in the absence of such authority risks improper augmentation.

In 2010, DoD requested authorization for a transfer of funds to fulfill its obligations under the FFA for years up to and including fiscal year 2011, and for authorization to reimburse EPA in future years. Section 311 of the 2011 National Defense Authorization Act (NDAA), Public Law No. 111-383, provided DoD with the authorization to "transfer not more than \$5,611,670.67 in fiscal year 2011 to the Hazardous Substance Superfund" for the purpose of reimbursing EPA for costs it "incurred relating to the response actions performed at the Twin Cities Army Ammunition Plant, Minnesota." Congress did not include authority for funds transfers in future years. Rather, Congress rejected a proposal to allow limited payments for a few additional years and stated that the fiscal year 2011 payment was "to fully satisfy the costs incurred by EPA related to the cleanup at TCAAP pursuant to the terms of the agreement." Senate Report S. 111-201 to Senate Bill 3454, National Defense Authorization Act for Fiscal Year 2011, page 101. EPA may continue to provide annual estimates of oversight costs and bills for actual costs in accordance with the FFA, but the Army may not pay such costs without further statutory authorization.

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The information contained in your correspondence dated January 24, 2014 does not provide a description of the costs in sufficient detail for the Army to determine if these oversight activities are within the scope of the agreement. Additionally, work plans with sufficient detail to identify planned oversight and response costs are required prior to incurring costs.

If you have any questions, please contact the POC, Mr. Michael Fix, DAIM-ODB-TW at (651) 294-4930.

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Michael R. Fix
Commander's Representative

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US EPA, Region V, ATTN: Ms. Susan Prout, C-14J, 77 West Jackson Blvd.,
Chicago, IL 60604

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Chicago, IL 60604

ACSIM, Mr. Michael J. Kelly, 600 Army Pentagon (Room 5B112A),
Washington, DC 20310-6000



DEPARTMENT OF THE ARMY
TWIN CITIES ARMY AMMUNITION PLANT
4761 HAMLINE AVENUE
ARDEN HILLS, MN 55112

REPLY TO
ATTENTION OF

19 April 2016

DAIM-ODB-TW

SUBJECT: EPA Bill Number 2751626T0024, \$69,910.18 for Twin Cities
Army Ammunition Plant FFA Reimbursement

Mr. Richard D. Hackley
Chief, Program Accounting & Analysis Section
EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Dear Mr. Hackley:

This letter acknowledges receipt of your correspondence dated January 21, 2016 (Re: US Department of Defense's Twin Cities Army Ammunition Plant, Arden Hills, (TCAAP) Minnesota 0540, Bill Number 2751626T0024 \$69,910.18). As you know, shortly after the Twin Cities Army Ammunition Plant (TCAAP) Federal Facility Agreement (FFA) was signed in 1987, the Department of Defense (DoD) determined that it did not have the legal authority to transfer funds to the U.S. Environmental Protection Agency (EPA) for reimbursement under Section XXIX of the FFA without specific statutory authorization. Transferring funds from one agency to another in the absence of such authority risks improper augmentation.

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The information contained in your correspondence dated January 21, 2016 does not provide a description of the costs in sufficient detail for the Army to determine if these oversight activities are within the scope of the agreement. Additionally, work plans with sufficient detail to identify planned oversight and response costs are required prior to incurring costs.

If you have any questions, please contact the POC, Mr. Michael Fix, DAIM-ODB-TW at (651) 268-8670.

Sincerely,



Michael R. Fix
Commander's Representative

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Chicago, IL 60604
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SCANNED